

Henry Amendment No. 3 to SB3174 Senate Finance, Ways, and Means Committee

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND

Senate Bill No. 3147*

House Bill No. 3259

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by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-4-409(a), is amended by deleting the language "for state purposes only" and by substituting instead the language "for state purposes only except as provided in Section 2 of this act".

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 4, Part 5, is amended by adding the following language as a new, appropriately designated section:

Section ____ (a) For purposes of this section, unless the context otherwise requires:

(1) "Adequate facilities tax" means any privilege tax that is levied by a county or municipality on engaging in the act of development; provided, however, that the meaning of adequate facilities tax shall not include:

(A) any impact fee that is imposed by a county or municipality; or

(B) any special assessment imposed by a county under section 5-1-118 or by a municipality under section 6-2-201(3).

(2)(A) "Base amount" means, for each eligible municipality, an amount of distributed tax revenue equal to one hundred percent (100%) of the average of funds collected by the municipality from its adequate

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facilities tax in the three (3) municipal fiscal years ending immediately before the effective date of the realty transfer tax levied by the county within which the municipality is located, except as provided in subdivision (4)(B). Any known erroneous collections by the municipality shall be corrected before calculating the average.

(B) In the case of an incorporated municipality which, solely because of its date of incorporation, does not have three (3) completed fiscal years immediately before the effective date of the county realty transfer tax, "base amount" means one hundred percent (100%) of the average of funds collected by the municipality from its adequate facilities tax in the one (1) or two (2) municipal fiscal years ending immediately before the effective date of the realty transfer tax levied by its county, as the case may be.

(3) "Development" means the construction, building, erection, extension, alteration, or improvement of any residential or non-residential building or structure or the addition to any such building or structure, or any part thereof, which provides or adds to the floor area.

(4) "Impact fee" means a monetary charge imposed by a county or municipal government by private act to regulate new development on real

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property. The amount of impact fees is related to the costs resulting from the new development, and the revenues from this fee are earmarked for investment in the area of the new development. "Impact fee" does not include any inspection fee or building permit fee.

(b) On all transfers of realty whether by deed, court deed, decree, partition deed, or other instrument evidencing transfer of any interest in real property, any county, which qualifies or has qualified for growth funding under Section 49-3-351(d) for four (4) separate years during any five (5) consecutive year period occurring after state fiscal year 1993-1994 and prior to the effective date of this act, or any county having a population of not less than 25,300 nor more than 25,600, according to the 1990 federal census or any subsequent federal census, is authorized to levy for county purposes, by resolution of its county legislative body adopted in accordance with subsection (d), a tax on the privilege of having the same recorded, which shall be levied at a rate equal to the rate of the transfer tax levied by the state under Section 67-4-409(a). The transfer tax shall be levied on any transfer of realty in the county which is taxable by the state, and the transfer tax shall be levied and collected in the same manner as the state transfer tax levied by Section 67-4-409(a), except as otherwise provided in this section.

(c)(1) The transfer tax authorized under this section shall only apply to that portion of the consideration for the transfer, or the value of the property, whichever is

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greater, of five million dollars (\$5,000,000) or less. No transfer tax shall be due or paid for any portion of such consideration or value in excess of five million dollars (\$5,000,000).

(2) Each county levying a realty transfer tax under this section is authorized to establish a program to provide tax relief to low income, elderly or disabled persons paying the realty transfer tax on transfers of residential property levied by the county. Such tax relief shall be implemented in a manner prescribed in the resolution levying the realty transfer tax or any amendment thereto. The resolution shall also establish the qualifications of persons eligible to receive the rebate.

(d) No resolution levying such realty transfer tax shall take effect unless it is approved by a two-thirds (2/3) vote of the county legislative body at two (2) consecutive, regularly scheduled meetings. Any county levying a realty transfer tax pursuant to this section may rescind such action by resolution of the county legislative body adopted in the same manner as the resolution imposing the tax.

(e) No county that levies a realty transfer tax under subsection (b) shall levy an adequate facilities tax.

(f) During the period beginning on July 1, 2000, and ending on June 30, 2001, no municipality shall levy a new adequate facilities tax or increase the rate of any adequate facilities tax that was not in effect on June 30, 2000.

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(g) Except as otherwise provided in this act, all tax revenue collected pursuant to taxes levied pursuant to this section shall be used exclusively to pay interest or principal on county or municipal debt obligations issued to fund school facilities. Notwithstanding the provisions of Section 49-3-1003, a county may enter into a memorandum of understanding with a municipality that has a municipal school system situated, in whole or in part, within such county to provide for allocating a portion of such tax revenue to the municipality to be used exclusively for the payment of interest or principal on such municipal debt obligations.

(h) If a county levies a realty transfer tax pursuant to this act, then no municipality situated, in whole or in part, within such county is authorized to levy an adequate facilities tax and any such adequate facilities tax then in effect shall be superseded by the county's realty transfer tax and no longer collected. If a municipality has an adequate facilities tax in effect at the time a county levies a realty transfer tax, then such county and municipality may, within twelve (12) months from the effective date of the county's levy of the realty transfer tax, negotiate an agreement for the annual distribution by the county to the municipality of an amount from the funds collected from the realty transfer tax, after the final distribution has been made in accordance with subsection (i), in order to compensate the municipality for lost tax revenue resulting from the replacement of the municipality's adequate facilities tax.

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(i) The taxes collected by a county under this section shall be distributed as follows:

(1) In the month immediately following the first full county fiscal year ending after the effective date of a realty transfer tax levied by a county, each municipality shall be paid its base amount to the extent that funds are available from the realty transfer taxes collected by the county, and any remaining funds may be retained by the county. If the funds collected by the county from the realty transfer tax are not sufficient to pay the full base amount to each municipality, then each municipality shall be paid a pro rata amount based upon the base amount of such municipality in relation to the aggregate sum of all such base amounts of all eligible municipalities within the county.

(2) In the month immediately following each succeeding fiscal year through the tenth subsequent fiscal year, each municipality shall be paid an amount equal to a percentage of its base amount calculated for such fiscal year as follows:

- (A) Second Fiscal Year: 90% of the base amount;
- (B) Third Fiscal Year: 80% of the base amount;
- (C) Fourth Fiscal Year: 70% of the base amount;
- (D) Fifth Fiscal Year: 60% of the base amount;

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(E) Sixth Fiscal Year: 50% of the base amount;

(F) Seventh Fiscal Year: 40% of the base amount;

(G) Eighth Fiscal Year: 30% of the base amount;

(H) Ninth Fiscal Year: 20% of the base amount;

(I) Tenth Fiscal Year: 10% of the base amount.

(J) Beginning with the eleventh county fiscal year following levy of the realty transfer tax pursuant to this act and each county fiscal year thereafter, one hundred percent (100%) of the funds collected from the realty transfer tax may be retained by the county.

(K) Any realty transfer tax funds remaining after making the prescribed payment to each eligible municipality may be retained by the county. If the funds collected by the county from the realty transfer tax are not sufficient to pay the prescribed percentage of the base amount to each municipality, then each municipality shall be paid a pro rata amount based upon the base amount of such municipality in relation to the aggregate sum of all such base amounts of all eligible municipalities within the county.

(j) For collecting and reporting taxes levied under this section, county registers shall be entitled to retain as commission two and one-half percent (2½%) of the taxes so collected. The county register in each county that has levied the tax authorized by this

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section shall also be entitled to charge and receive a fee of one dollar (\$1.00) for issuing a receipt for taxes collected pursuant to this section, whether this receipt is a separate document or is included within a receipt for state taxes levied by Section 67-4-409. Such fee shall be paid when the tax receipt is issued.

SECTION 3. This act shall take effect July 1, 2000, the public welfare requiring it.